

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA

v.

DAVID MORSE BARRY

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CRIMINAL NO. H-12-691S

GOVERNMENT'S REQUESTED VOIR DIRE

Respectfully submitted,

KENNETH MAGIDSON
United States Attorney

/s/ Sherri L. Zack

Sherri L. Zack

Assistant United States Attorney

713/567-9374

1. If your answer to any of the following questions would prove embarrassing to you personally if answered in the presence of the panel as a whole, you may raise your hand, state your name and come forward to the bench and reply to the Court and attorneys privately.

2. Would each of you rise, state your name, your occupation, your spouse's occupation if you are married, and the age of your children, if any.

Please also state if you are currently renting or buying your home, and how long you have lived in this area.

3. Do any among you have any conscientious objection, religious belief, or mental reservation such that you could not, in good faith, sit as a juror in this criminal case and return a verdict of guilty, if you believe from all the evidence, that the Government has proved its case beyond a reasonable doubt?

4. Has any member of the panel ever served as a juror in a lawsuit? Meaning:

(a) Have you ever served as a juror in a civil case?

(b) Have you ever served as a juror in a criminal case?

If your answer is yes to either of those questions, please state the nature of the case or cases, and whether an agreement as to a verdict was reached in each case in which you have served as a juror.

5. Have you ever testified in a criminal case? If so, were you called by the prosecution or by the defense?

6. Are there any among you or among your family or close personal friends who at any time prior to today or at present, have been the subject of any investigation by an agency of the State or Federal Government or have any case pending in State or Federal

Court at this time?

7. Have you, any member of your family, or close personal friends, ever been arrested for or charged with a crime other than a minor traffic violation? If so, what was the offense and what was the disposition?
8. Has anyone here ever had a particularly bad or unpleasant experience with any police officer, or a federal agent, such that you felt you were treated rudely or unfairly by this individual?
9. The defendant in this case is:

DAVID MORSE BARRY

- Do any of you know the defendant, has anyone heard of the defendant, are any of you related to or acquainted with him, or have any of you ever conducted any business whatsoever with him?
10. The defendant is represented by Robert Jarvis and Kimberly Minick . Do any of you know either of them?

Assistant United States Attorneys Sherri Zack and Robert Stabe represent the United States of America. Do any of you know either of them?

11. The defendant is accused of conspiracy to produce child pornography and production of child pornography by parent/guardian. Does anyone have any questions about these laws? Is there anything about these charges that will affect your ability to sit as a juror on this case?

Can everyone find a defendant guilty of violating these laws if the government convinces you beyond a reasonable doubt of the defendant's guilt?

12. Will any of you have any difficulty viewing graphic pictures of minor and adult

genitalia?

Will any of you have any difficulty viewing images of children being exploited?

13. Have any of you ever been exposed to child pornography?

14. Does anyone believe that in order for something to be child pornography, the child must be engaged in a sex act?

15. Some people have the belief that producing, possessing, transmitting or trading child pornography, including possession in your own home, is an activity protected by the First Amendment. Such activity is not protected and Congress has passed laws which make it a crime to produce, receive, distribute or possess child pornography. Is there anyone that thought this type of activity was protected?

Is there anyone who thinks that possession of child pornography should be protected by the First Amendment?

Adult pornography is protected by the First Amendment. Is there anyone that believes that adult pornography should be available on the Internet?

Is there anyone that believes that ALL pornography should be illegal?

Is there anyone that believes that ALL pornography should be legal?

16. Have any of you or your relatives or close friends ever been involved in any incident involving sexual contact, abuse or molestation between an adult and child?

If so, please give brief description, the outcome, your feelings about it and whether or not it would affect in any way your ability to be a fair and impartial juror in this case.

17. Who uses computers at either home or work?

Does anyone NOT own a home computer?

Does anyone NOT know how to use e-mail/chatting features?

Does anyone NOT know how to access and use the Internet?

Does anyone NOT know how to use a digital camera?

18. How many of you know how to download something off the Internet?

How many of you know how to find it and open it once you download it?

Is there anyone who does NOT know how to download something off the Internet?

19. Who here has children that use the Internet or any digital device including cameras? Who here has children who do not use the Internet or are not allowed to use the Internet or digital devices?

Those that do, do you have rules in your household that your children must follow when using the Internet?

Does anyone have children that have gotten in trouble on the Internet or by downloading something on the Internet?

20. Does anyone believe that adults are not responsible for the actions of their children or the activities they allow their children to participate in?

21. You may consider either direct or circumstantial evidence. "Direct evidence" is the testimony of one who asserts actual knowledge of a fact, such as an eye witness. "Circumstantial evidence" is proof of a chain of facts and circumstances indicating either the guilt or innocence of the Defendant. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. It requires only that you weigh all of the evidence and be convinced of the Defendant's guilt beyond a reasonable

doubt before he can be convicted.

Are there any among you that could not convict a defendant based upon circumstantial evidence in this case?

22. Is there anyone among you who believes that circumstantial evidence, no matter what it might be, is automatically less reliable than direct evidence, and cannot support a conviction?

23. Can everyone here rely on computer evidence to find someone guilty?

24. Do you or anyone in your household have advanced computer training or a degree relating to computer science or computer technology?

25. How many hours a day do you spend on the computer? Is this for work, pleasure or both?

26. Are you familiar with instant messenger? Have you ever used any instant messaging programs? If yes, which ones? Why use that type of communication instead of a phone call, text, Facetime or Skype?

27. What computer programs/social media do you regularly use? For example, Microsoft Outlook, Google, Facebook?

28. Are you or any of your family members or close friends nudists? Have you ever visited nudist colonies or vacationed at nudist resorts?

29. Have you ever heard of nudism having therapeutic effects on developmentally delayed children or children with emotional issues?

30. Does anyone have a degree in psychology or social work? Has anyone worked for CPS or any child protective agency? Has anyone been the subject of a CPS investigation or involved in any CPS investigation?

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Government's Voir Dire was delivered to the attorney for the defendant via ECF on this the 8th day of April, 2014.

/s/ Sherri L. Zack

Sherri L. Zack

Assistant United States Attorney

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